

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 9, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF 110d-086

OAHU

Issuance of Revocable Permit to International Catering Concepts, Inc. for Beach Activities Purposes to be held from June 28 to July 1, 2011 at Unencumbered State Lands, Kahala, Honolulu, Oahu, Tax Map Key: (1) 3-5-023:seaward of 041

APPLICANT:

International Catering Concepts, Inc., a domestic profit corporation

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of unencumbered State lands situated at Kahala, Honolulu, Oahu identified as of tax map key: (1) 3-5-023:seaward of 041, as shown on the attached Exhibit A1.

AREA:

2,400 square feet, more or less. (Exhibit A2)

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Requested area is vacant and unencumbered.

CHARACTER OF USE:

Beach activities purposes.

TERM:

From 8:00 am on June 28, 2011 to 4:00 pm on July 1, 2011 (4 days)

RENTAL:

\$960 (one time payment).

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation." See Exhibit B.

DCCA VERIFICATION:

| | | |
|---|--------------|--------------|
| Place of business registration confirmed: | YES <u>x</u> | NO <u> </u> |
| Registered business name confirmed: | YES <u>x</u> | NO <u> </u> |
| Applicant in good standing confirmed: | YES <u>x</u> | NO <u> </u> |

REMARKS:

Pursuant to the authority delegated by the Board on September 28, 2001 (D-4), right-of-entry permits were issued for beach activities in the past. After discussion about different types of commercial activities and any associated requirements, staff brings the request to the Board for disposition. The form of disposition could be in form of a revocable permit.

The abutting hotel is hosting an award event for above 400 guests during the requested period. The Applicant is hired to manage and production of the event. One of the activities is live music performance on June 30, 2011, between 6:45 pm to 10:30 pm. To facilitate the performance, the Applicant requests approval to install a temporary stage (40 x 60 feet) mounted on the sand. According to the Applicant, the stage will also be set on protective

pads to prevent any sinking into the sand. In addition, the Applicant will position the stage in such a way that any noise will be buffered from the residential area by the hotel building. Sounds will be directed towards the hotel guests on the lawn in front of the hotel.

Staff discussed the request with the Office and Conservation and Coastal Lands recommended additional conditions as shown in the Recommendation Section. No other government agencies were asked to comment.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions.

RECOMMENDATION: That the Board

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to the International Catering Concepts, Inc. covering the subject area for beach activities purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - B. The activity/use shall not adversely affect a federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
 - C. The activity/use shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;
 - D. When the Chairperson is notified by the public that an individual activity deviates from the scope of the activity/uses, or activities are adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the applicant(s) to undertake corrective measures to address the condition affecting these resources. The applicant(s) must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
 - E. When the Chairperson is notified by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service or the State Department of Land and Natural Resources that an individual activity/use or activities conducted under this letter


is adversely affecting fish or wildlife resources or the their harvest, the Chairperson will direct the applicant(s) to undertake corrective measures to address the condition affecting these resources. The applicant must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;

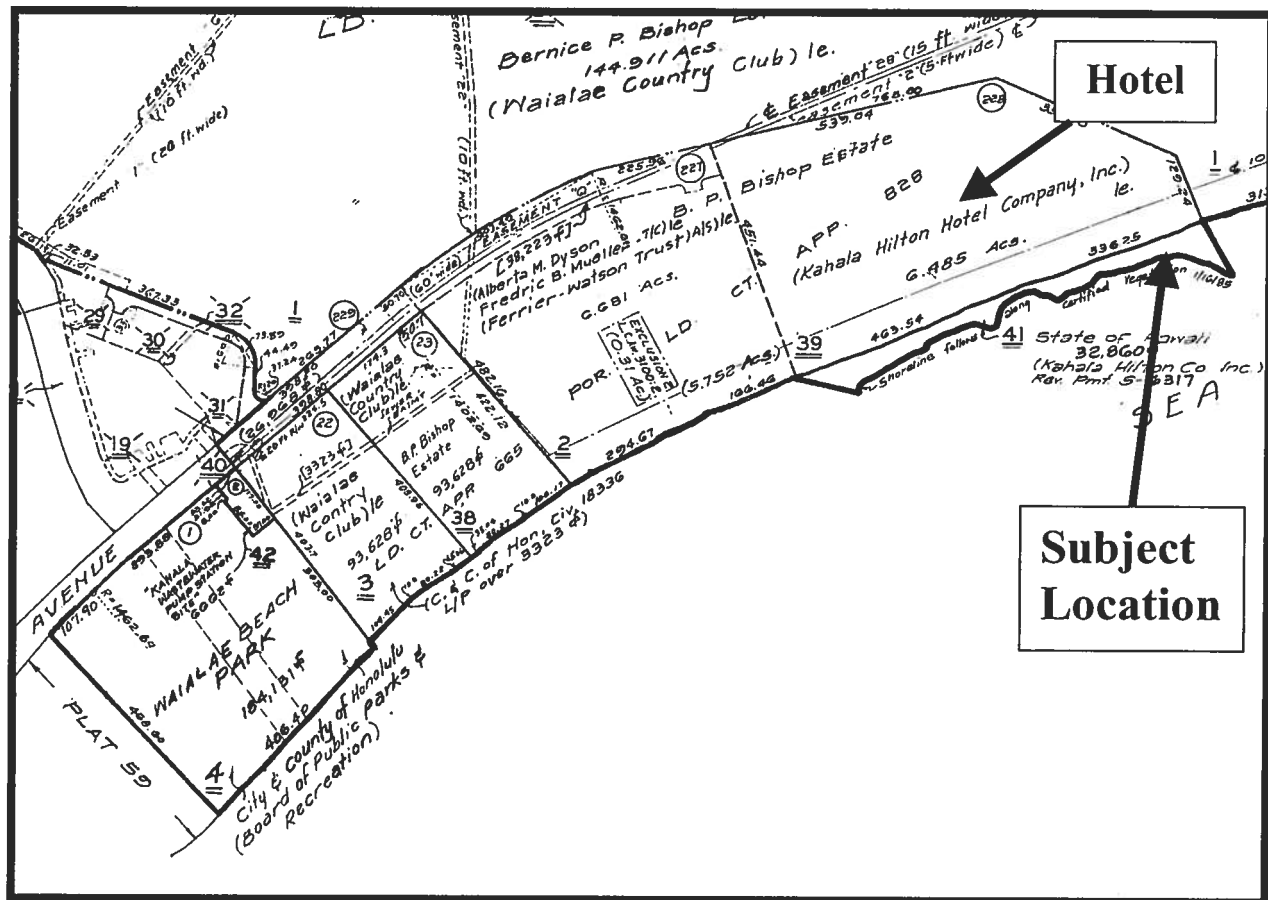
- F. Where any interference, nuisance, or harm may be caused, or hazard established by the activities/uses, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm or hazard;
- G. No contamination of the marine or coastal environment (trash or debris) shall result from project-related work;
- H. No motorized construction equipment is to be operated in the water at any time;
- I. The applicant shall ensure that excessive siltation and turbidity are contained or otherwise minimized through the use of silt containment devices or barriers;
- J. The applicant shall take measures to ensure that the public is adequately informed of the project activities/uses once it is initiated and the need to avoid the project area during the operation;
- K. The applicant shall implement standard Best Management Practices (BMPs), including the ability to contain and clean up fuel; fluid or oil spills immediately for activities/uses. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance.
- L. Review and approval by the Department of the Attorney General; and
- M. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr. Chairperson



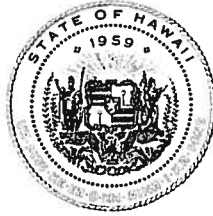
TMK (1) 3-5-023:seaward of 041

EXHIBIT A1



EXHIBIT "A2"

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 9, 2011

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIKOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Issuance of Revocable Permit for Beach Activities Purposes

Project / Reference No.: PSF 110d-086

Project Location: Kahala, Honolulu, Oahu, Tax Map Key: (1) 3-5-023:seaward of 041

Project Description: Performance Stage

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

This Division has permitted similar events in the past. The proposed activity is of a similar type and scope of beach activities that periodically occurred and continues to occur on this and other beach areas across the State. Such activities have resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such staff believes that the proposed event would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties Office of Conservation and Coastal Lands

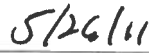
EXHIBIT B

Recommendation:

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Aila, Jr., Chairperson



Date